

Subpart C—Eligibility Criteria for Claims Relating to Certain Specified Diseases

§ 79.20 Scope of subpart.

The regulations in this subpart describe the criteria for eligibility for compensation under sections 4(a)(2) (A) and (B) of the Act, and the type and extent of evidence that will be accepted as proof of the various criteria. Sections 4(a)(2) (A) and (B) of the Act provide for a payment of \$50,000 to individuals presumably exposed to fallout from the atmospheric detonation of nuclear devices at the Nevada Test Site due to their physical presence in an affected area during a designated time period, and later developed one or more specified compensable diseases.

§ 79.21 Definitions.

(a) The definitions listed in § 79.11 apply to this subpart.

(b) *Specified compensable diseases* means leukemia, multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of the: Thyroid, female breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder and liver.

(c) *Multiple myeloma, lymphoma, Hodgkin's disease, primary cancer of the thyroid, primary cancer of the female breast, primary cancer of the esophagus, primary cancer of the stomach, primary cancer of the pharynx, primary cancer of the small intestine, primary cancer of the pancreas, primary cancer of the bile ducts, primary cancer of the gall bladder and primary cancer of the liver means the physiological condition or conditions that are recognized by the National Cancer Institute under those names or nomenclature, or under any previously accepted or commonly used names or nomenclature.*

(d) *Heavy smoker* means an individual who smoked more than 20 pack years of any kind of tobacco cigarette products; one pack year is defined as an average of 20 cigarettes per day for one year. This definition does not include the use of cigars or pipe tobacco, or any tobacco products that are used without being lighted. The term excludes an individual who smoked more than 20 pack years, but who can establish in accordance with § 79.27 that he or she stopped smoking at least fifteen (15)

years prior to the diagnosis of primary cancer of the esophagus, pharynx, or pancreas, and did not resume smoking at any time thereafter.

(e) *Heavy drinker* means an individual who consumed on average for five (5) years at least 4 drinks per day with one and one-half ounces of alcohol, or 4 six-ounce servings per day of wine, or four twelve-ounce servings per day of beer.

(f) *Heavy coffee drinker* means an individual who consumed on average more than 15 6-ounce portions of regular or decaffeinated coffee per day for twenty (20) years.

(g) *Indication of disease* means any medically significant information that suggests the presence of a disease, whether or not the presence of the disease is later confirmed.

[Order No. 1580-92, 57 FR 12435, Apr. 10, 1992, as amended by Order No. 2213-99, 64 FR 13691, Mar. 22, 1999]

§ 79.22 Criteria for eligibility.

To establish eligibility for compensation under this subpart, a claimant or eligible surviving beneficiary must show by a preponderance of the evidence that each of the following criteria are satisfied:

(a) The claimant was physically present in the affected area for either:

(1) A period of at least two years during the period beginning on January 21, 1951 and ending on October 31, 1958, OR

(2) The entire period beginning on June 30, 1962 and ending on July 31, 1962; and

(b) After such period of physical presence the claimant contracted one of the following specified compensable diseases:

(1) Leukemia, provided that:

(i) The claimant's initial exposure occurred after the age of 20, and

(ii) The onset of the disease was between 2 and 30 years after first exposure;

(2) Multiple myeloma, provided onset was at least 5 years after first exposure;

(3) Lymphomas, other than Hodgkin's disease, provided onset was at least 5 years after first exposure;

(4) Primary cancer of the thyroid, provided,

(i) The claimant's initial exposure occurred by the age of 20, and